

EXHIBIT C

Nallely Vasquez

From: Higgins, Christopher J. [chiggins@orrick.com]
Sent: Wednesday, July 09, 2014 10:45 PM
To: Blue Spike Litigation JDG
Cc: bluespike@ghiplaw.com; Hershkowitz, Benjamin; Ramsey, Gabriel M.; Caridis, Alyssa; Blue Spike Litigation JDG; Christopher Honea; Eric Findlay; Furman, Joshua
Subject: Re:[bluespikelitigationjdg] Blue Spike v. Texas Instruments, et al - Rule 4-2 Preliminary Claim Constructions

Randall - it is now less than two hours before the 4-3 deadline and defendants have yet to receive anything from Blue Spike. Not even a draft nor the courtesy of an update as to when to expect a draft. The defendants sent a proposal to Blue Spike along with a letter requesting that Blue Spike provide actual constructions for the terms at issue on July 3, again on July 8 and finally today following the meet and confer. Blue Spike has never sent defendants any edits to these charts and instead missed an agreed on meet and confer yesterday. We prepared all of the filings so that all Blue Spike had to do was fill in its citations to intrinsic evidence. To the extent anything has changed as a result of our meet and confer today, that ended more than 9 hours ago. Unless this is another purposeful delay by Blue Spike, it is hard to comprehend how such a task cannot be completed in this amount of time. Please immediately send us Blue Spike's portion, as we are running out time to allow defendants to sign off prior to the parties' midnight deadline. If defendants do not receive Blue Spike's portion by 11:00 central, we will proceed to file the documents unilaterally and explain to the Court the reason we were forced to do so.

-Chris

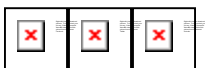
From: rgarteiser@ghiplaw.com
Sent: Wednesday, July 9, 2014 10:27 PM
To: [Walter Lackey](#)
Cc: bluespike@ghiplaw.com, [Hershkowitz, Benjamin](#), [Ramsey, Gabriel M.](#), [Caridis, Alyssa](#), [Blue Spike Litigation JDG](#), [Christopher Higgins](#), [Christopher Honea](#), [Eric Findlay](#), [Furman, Joshua](#)

Working on it.



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On Jul 9, 2014, at 9:24 PM, Walter Lackey <wlackey@findlaycraft.com> wrote:

Randy,

Checking in on the status, as we need to obtain sign off from all defendants, some of which are on the East Coast. Please advise.

Best regards,

Walter

Findlay Craft P.C.

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From: Furman, Joshua [<mailto:JFurman@gibsondunn.com>]

Sent: Wednesday, July 09, 2014 3:03 PM

To: Blue Spike Litigation JDG

Cc: VIZIO:Higgins, Christopher; bluespike@ghiplaw.com; Hershkowitz, Benjamin; Ramsey, Gabriel M.; Caridis, Alyssa; Blue Spike Litigation JDG (bluespikelitigationjdg@lists.fenwick.com)

Subject: RE:[bluespikelitigationjdg] Blue Spike v. Texas Instruments, et al - Rule 4-2 Preliminary Claim Constructions

Randall,

Thank you for the productive meet and confer. Attached is an updated chart that reflects the agreements made on the call today. I have attached a redline and a clean version that reflect the following changes. Please note the new numbering appears only on the clean version.

I have removed the terms that we agreed do not be construed, listed below. In addition, I removed the term "hashed abstract" where we agreed on a construction.

The defendants agree to Blue Spike's proposal to remove the phrase "capable of" from a number of terms as listed below and those have been removed from the chart. For consistency, defendants removed the phrase capable of from the construction of "recognizable characteristic" even though Blue Spike has no proposed construction for that term. All agreed upon constructions will be included in the cover pleading.

Defendants propose the plain and ordinary meaning of the term "digital." Defendants note that Blue Spike only proposed this term and its construction last night and defendants will work with Blue Spike to try and reach an agreement on a construction.

On the call Blue Spike proposed a construction for the term “hash” – “A mathematical function that maps a bit string of arbitrary length to a fixed length bit string.” Defendants do not agree to that construction and will stay with its construction of “A mathematical transform that maps a bit string of arbitrary length to a fixed length bit string to achieve uniqueness.”

I have also fixed some typographical errors and move the terms “index of relatedness” and “similar to” to the end of the document that are reflected in redlines in the attached. Moreover, I tried to insert some of Blue Spike’s proposals as we discussed them but please review to make sure that I got everything and did so correctly.

As to requesting a one-day extension to allow the parties to reach agreement. As noted it is unclear whether the Court would object to this last minute request, so Walter Lackey is going to call the clerk to make sure it is okay. In addition, defendants also believe that given the complexities of the negotiations over the constructions that a further extension of the tutorial to August 8 would be advantageous to both sides. Assuming we get the clerk’s approval, please let us know by 4:45 PM Central if Blue Spike agrees.

Thanks,
Josh

Terms parties agreed not to construe:

- Digital reference signal abstract
- Query signal abstract
- Digital representation
- First digital reference signal abstract
- Signal
- Identifies
- Identifying
- Recording
- To be identified
- Digital representation of one of a plurality of different versions of a visual and a multimedia work

Terms where parties agreed on construction:

- Hashed abstract - data that results from performing a Hash on an Abstract
- Perceptible characteristic - Characteristic perceived by a person
- Cognitive characteristic - Characteristic understood by a person
- Subjective characteristic - characteristic perceived differently by different people
- Perceptual quality - quality perceived by a person

Joshua R. Furman

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From: Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]

Sent: Wednesday, July 09, 2014 12:00 PM

To: Furman, Joshua

Cc: VIZIO:Higgins, Christopher; bluespike@ghiplaw.com; Hershkowitz, Benjamin; Ramsey, Gabriel M.;

Caridis, Alyssa

Subject: Re: Blue Spike v. Texas Instruments, et al - Rule 4-2 Preliminary Claim Constructions

We are getting a busy signal when we try to call in.
is there a backup number or should we just keep trying?

<image001.png>

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On Jul 8, 2014, at 2:45 PM, Furman, Joshua <JFurman@gibsondunn.com> wrote:

Randall,

Defendants remain on the line and available to talk as agreed to. It is difficult to understand how setting up a dial in number can be used to avoid a previously agreed up meet and confer time. As you repeatedly note, the local rules require the parties to meet and confer. Defendants were and are available at the agreed upon time, Blue Spike was not. In the event you insist on rescheduling, 4 PM Central is too late on the day the exchange is due to be productive. Defendants are available at 11 AM Central tomorrow. To avoid any confusion we can use my dial in number:

877-492-4011
Passcode 2123512461

Moreover, Shazam objects to your characterization of our request. During a productive call yesterday you requested that I send you a word version of the chart that accompanied Shazam's letter of July 3. In that letter and on the call last night Shazam requested that Blue Spike propose constructions that it failed to provide in it 4-2 exchange. Your characterization of this request as "late" is simply incorrect.

Best,
Josh

Joshua R. Furman

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From: Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]
Sent: Tuesday, July 08, 2014 3:33 PM
To: VIZIO:Higgins, Christopher
Cc: Furman, Joshua; bluespike@ghiplaw.com; Hershkowitz, Benjamin; Ramsey, Gabriel M.; Caridis, Alyssa
Subject: Re: Blue Spike v. Texas Instruments, et al - Rule 4-2 Preliminary Claim Constructions

If everyone is on and waiting, it's apparent there was a defense group dial in that was not circulated to Blue Spike. With other obligations that have been scheduled, we proposed to move the call to tomorrow at 4 pm Central. We can then address Shazam's late requests for comments on the document it sent over. If confirmed, we can supply the dial in information this time, to be clear. Regards,

<image001.png>

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On Jul 8, 2014, at 2:24 PM, Higgins, Christopher J. <chiggins@orrick.com> wrote:

We are all on and waiting for Blue Spike to join. There was never a question of a subset only joining. We were all ready at 2:00 pm central when Blue Spike obviously was not.

From: Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]
Sent: Tuesday, July 08, 2014 3:23 PM
To: Higgins, Christopher J.
Cc: Furman, Joshua; bluespike@ghiplaw.com; Hershkowitz, Benjamin; Ramsey, Gabriel M.; Caridis, Alyssa
Subject: Re: Blue Spike v. Texas Instruments, et al - Rule 4-2 Preliminary Claim Constructions

Who is on the call? We need all Defendants to comply with the Court's order. Meeting with a subset of defendants is not fair to the other defendants.

On Jul 8, 2014, at 2:13 PM, "Higgins, Christopher J." <chiggins@orrick.com> wrote:

Randall – we can use my dial in number for a call right now.

1-888-582-3528
6443721#

Your email below is inappropriate and not well-taken. We have repeatedly asked you for a dial in number for this call and you failed to set one up. However, we have been prepared to talk at this time and are ready now. We will be on the line.

-Chris

From: Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]
Sent: Tuesday, July 08, 2014 3:10 PM
To: Furman, Joshua
Cc: Higgins, Christopher J.; bluespike@ghiplaw.com; Hershkowitz, Benjamin
Subject: Re: Blue Spike v. Texas Instruments, et al - Rule 4-2 Preliminary Claim Constructions

I would but I am not in a position to do so now at this time. It is appearing more and more that Defendants are not interested meeting its court obligations. Blue Spike attempted to step this call up for July 7, and we were told by Audible Magic and Facebook's counsel last week that attorneys making up the joint defense group opposed a Monday meeting. Now, when Blue Spike agreed to the time and date suggested by Facebook and Audible Magic, you are informing Blue Spike for the first time that defendants haven't even a call in number set up? Have you guys not even discussed the disputed terms internally?

Blue Spike will circulate a call-in number to meet and confer at 4 p.m. Central tomorrow.

<image001.png>

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On Jul 8, 2014, at 1:47 PM, Furman, Joshua <JFurman@gibsondunn.com> wrote:

There is no call in number yet and would appreciate Blue Spike setting one up. Thanks.

Joshua R. Furman

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From: Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]
Sent: Tuesday, July 08, 2014 2:46 PM
To: Furman, Joshua
Cc: VIZIO:Higgins, Christopher; bluespike@ghiplaw.com; Hershkowitz, Benjamin
Subject: Re: Blue Spike v. Texas Instruments, et al - Rule 4-2 Preliminary Claim Constructions

Unfortunately, we were not able to turn it around in time.

Is there a call-in number already circulated or did defendants want Plaintiff to do so?

<image001.png>

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On Jul 8, 2014, at 12:57 PM, Furman, Joshua <JFurman@gibsondunn.com> wrote:

Hi Randall,

Thanks again for speaking last night. Do you expect to send us a redline of the chart I sent last night before the meet and confer call at 2 PM Central? Also, can you please send me a dial in that I can circulate to all the defendants who will be joining us?

Thanks,
Josh

Joshua R. Furman

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From: Furman, Joshua
Sent: Monday, July 07, 2014 7:56 PM
To: 'Randall Garteiser'
Cc: VIZIO:Higgins, Christopher; bluespike@ghiplaw.com; Hershkowitz, Benjamin

Subject: RE: Blue Spike v. Texas Instruments, et al - Rule 4-2 Preliminary Claim Constructions

Randall,

Thanks for speaking just now. As we discussed, I've attached a word version of the chart of claims that I sent with my letter last week. When Blue Spike puts in its proposals for the blue and yellow terms please try and do it in redline, if possible.

Thanks,
Josh

Joshua R. Furman

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From: Randall Garteiser [\[mailto:rgarteiser@ghiplaw.com\]](mailto:rgarteiser@ghiplaw.com)
Sent: Monday, July 07, 2014 5:00 PM
To: Furman, Joshua
Cc: VIZIO:Higgins, Christopher; bluespike@ghiplaw.com
Subject: Re: Blue Spike v. Texas Instruments, et al - Rule 4-2 Preliminary Claim Constructions

Josh, I would still like to chat today about claim construction, but I can only do so at 6 pm Central? Does that work for you?

<image001.png>

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On Jul 7, 2014, at 11:43 AM, Furman, Joshua <JFurman@gibsondunn.com> wrote:

Sounds good. Let's use my dial in for this call. I will send an outlook invitation.

Best,
Josh

Joshua R. Furman

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From: Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]
Sent: Monday, July 07, 2014 12:42 PM
To: Furman, Joshua
Cc: VIZIO:Higgins, Christopher; bluespike@ghiplaw.com
Subject: Re: Blue Spike v. Texas Instruments, et al - Rule 4-2 Preliminary Claim Constructions

I hope too, if not we will make time tomorrow morning. But for now let's aim for 4 p.m. Central later today.
Sound good?

<image001.png>

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On Jul 7, 2014, at 11:19 AM, Furman, Joshua <JFurman@gibsondunn.com> wrote:

Randall,

Thanks for the email. Do you have some time today to discuss issues relating to groupings? I think we should be able to work this out before the meet and confer.

Thanks,
Josh

Joshua R. Furman

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From: Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]
Sent: Monday, July 07, 2014 11:14 AM
To: VIZIO:Higgins, Christopher
Cc: bluespike@ghiplaw.com; AudibleMagic-BlueSpike; Walter Lackey; Eric Findlay; Orion Armon; Furman, Joshua
Subject: Re: Blue Spike v. Texas Instruments, et al - Rule 4-2 Preliminary Claim Constructions

Sounds good, Plaintiff Blue Spike does not understand why defendants are making groupings of disputed terms and phrases without the benefit of a preventative claim to assist with context and clarity.

So on the call apart from attempting to reduce the disputed claim terms, we will need to figure out a way to present all the parties positions fairly in our P.R. 4-3 joint statement.

Be well,
Randall

On Jul 3, 2014, at 5:30 PM, "Higgins, Christopher J." <chiggins@orrick.com> wrote:

Randall,

Defendants are available at 2:00 pm Central on July 8 to meet and confer. We can address Audible Magic's patent at the end of the call or on a separate call immediately after. Please circulate a dial in for the call.

-Chris

On Jul 2, 2014, at 11:52 AM, "Randall Garteiser" <rgarteiser@ghiplaw.com> wrote:

Please advise when Defendants would like to meet and confer to discuss narrowing any terms and address any unintentional oversights by either side to reduce the issues for the Court.

Blue Spike is available from 10 a.m. to 3 p.m. Central from July 7 through July 10 for an initial meet and confer in preparation for filing the parties' P.R. 4-3 statement. Just let us know what time and day works best for Defendants. We suggest starting

early in the week in case we decide to have another meeting. We are open to meeting in person and calling out to those defendants not located in Tyler, Texas.

Please advise how you would like to proceed. We anticipate discussing the '308 patent towards the beginning or end of these meet and confer teleconferences at your preference.

<image001.png>

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<image002.png><image003.png><image004.png>

On Jun 27, 2014, at 5:03 PM, Higgins, Christopher J. <chiggins@orrick.com> wrote:

Counsel,

Please see attached Defendants' Rule 4-2 Preliminary Claim Constructions.

<image001.gif><image004.png> **CHRISTOPHER J. HIGGINS**

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<Defendants Rule 4-2 Preliminary Claim
Constructions.pdf><image001.gif><image004.png>

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